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 B&O Manufacturing, Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO/OAKLAND DIVISION

B&O MANUFACTURING, INC.,

Plaintiff,
 v.

HOME DEPOT U.S.A., INC.,

Defendant.

Case No.: C 07-02864 JSW

**EVIDENTIARY OBJECTIONS TO THE
 DECLARATION OF DAVID CURLEY IN
 SUPPORT OF DEFENDANT'S MOTION
 TO TRANSFER VENUE TO THE
 NORTHERN DISTRICT OF GEORGIA
 AND TO DISMISS COUNTS TWO
 THROUGH FIVE OF PLAINTIFF'S
 SECOND AMENDED COMPLAINT**

Date: November 2, 2007
 Time: 9:00 a.m.
 Ctrm: 2, 17th Floor
 Judge: Hon. Jeffrey S. White

	<u>REFERENCE</u>	<u>OBJECTIONS</u>
1.	Page 2:12-15.	Speculation; no foundation; FRE 602; Local Rule 7-5(a) and (b). Mr. Curley testified that he has been a Home Depot employee, commencing September 6, 2005. Accordingly, he has not established first hand knowledge for his testimony that Home

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1		Depot has been purchasing safety netting
2		from B&O for well over ten years, nor
3		whether B & O representatives have visited
4		Home Depot's Atlanta headquarters over this
5		long term relationship, of which he has been
6		involved for less than 1/5 thereof.
7		_____ Sustained
8		_____ Overruled
9	2.	Page 2:20-22, commencing with "Shortly"
10		and ending with "MOU."
11		Speculation; no foundation; FRE 602; FRE
12		1002; Local Rule 7-5(a) and (b), vague as to
13		time. Further, as Mr. Curley apparently
14		started with Home Depot on September 6,
15		2005, and as he states that Home Depot pre-
16		paid B & O over \$5 million for split curtain
17		safety netting systems under the MOU,
18		(which B & O disputes), shortly thereafter,
19		this statement also appears to constitute
20		hearsay (FRE 802). Mr. Curley has not
21		demonstrated that he has sufficient
22		knowledge of the payment history of Home
23		Depot to B&O. Indeed, he admits in his
24		Declaration, at page 4:1-2, that persons other
25		than himself are persons with such purported
26		knowledge. With respect to FRE 1002, the
27		writings reflecting payments are required in
28		order to prove Mr. Curley's assertion.
		_____ Sustained

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1		_____ Overruled
2	3.	Page 2:22-23, commencing with "Of."
3		Speculation; no foundation; FRE 602; FRE
4		1002; Local Rule 7-5(a) and (b).
5		_____ Sustained
6		_____ Overruled
7	4.	Page 3:11-13, commencing with "All."
8		Speculation; no foundation; FRE 602; Local
9		Rule 7-5(a) and (b); hearsay. Mr. Curley has
10		not demonstrated how he knows which
11		employees are able to so testify, nor how he
12		has knowledge of their residence.
13		_____ Sustained
14		_____ Overruled

Dated: September 24, 2007

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By: /s/ Paul E. Rice

Paul E. Rice
 Attorneys for Plaintiff
 B&O MANUFACTURING, INC.